IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 417 OF 2002
WITH
CIVIL APPLICATION NO. 670 OF 2002

Sayrabano Abdulla Shaikh ..Petitioner.

Vs.

Zilla Parishad, Sawantwadi & Ors. ..Respondents.

Mr. Tejas Deshmukh for the Petitioner.
Mr. R.D. Rane for the Respondent Nos.1 & 3.

CORAM : F.I. REBELLO AND
Dr.D.Y.CHANDRACHUD,JJ.
DATED : 06TH FEBRUARY, 2006.

P.C.:

1. The petitioner approached this court to challenge an order of her transfer and the disciplinary proceedings which were initiated against her. No stay was granted.

2. On civil application No. 670/2002, which was filed for staying the departmental enquiry initiated against the petitioner, an ad-interim order was granted. A reply has been filed by Dr. Shripad Prabhakar Kulkarni, District Health Officer, Respondent No.2. It is pointed out therein that the petitioner was working at Primary Health Centre at Banda since 7.4.1995 i.e. for more than six years and that she was transferred to the post at Mithabav, which was vacant on the administrative grounds. Considering the said averments,

we do not find that this is a fit case to exercise our extra ordinary jurisdiction. Suffice it to say that it is open to the petitioner to move the competent authority for her transfer on the ground that she had already put in more than five years in the present place of positing. If such an application is made, it is for the competent authority to dispose of the same according to law.

3. The charge-sheet in a departmental enquiry was on account of publication of the news report regarding service condition in the local newspapers, making correspondence to an authority other than the Chief Executive Officer, without prior permission and disobeying the orders of the Superior by the petitioner. Considering the averments in the petition, we do not think that the charge is such which warrants an enquiry. In case of a misconduct of this nature, it will be open to the competent authority, considering the material on record, to consider whether to proceed with the enquiry or merely to issue warning to the petitioner and close the proceedings if the record so justifies.

4. With the above direction, the petition alongwith the civil application stands disposed of.

(F.I. Rebello, J)

06.02.2006

(Dr.D.Y.Chandrachud,J)